

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2006-91-E – ORDER NO. 2006-273
APRIL 28, 2006

IN RE: Application of Duke Power for Approval of Proposed Addition to Duke Power's Service Regulations and Various Tariffs to Address Early Contract Termination) ORDER CLARIFYING) RESPONSIBILITIES OF) PARTIES WITH) REGARD TO EARLY) TERMINATION OR) AMENDMENT
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This matter comes before the Public Service Commission of South Carolina (the Commission) on the request of Duke Power (Duke or the Company), a division of Duke Energy Corporation, for Commission approval to modify its Service Regulations; Rate Schedules G, W, GA, 9, BC, TS, GB, GT, I, IT, OPT, HP-X, PG, EV-X and MP; and On-Site Generation Service (OSG) Program Tariff and service agreement to add or clarify provisions regarding the customer's obligations upon termination of or amendment to the customer's electric service agreement prior to the expiration of the initial term of contract.

Duke proposes to add a provision to Leaf A of its Service Regulations to clarify the method for determining the amount that nonresidential customers will be required to pay when terminating or amending the agreement before fulfillment of the initial term, unless the rate schedule and/or rider(s) under which the customer is serviced provide otherwise. The charge will be the lower of: (a) The net present value of the monthly minimum bills less any mitigation of damages; or (b) The sum of the loss due to early

retirement of facilities specifically installed by the Company to provide service under the agreement (provided that this amount is not less than zero).

According to Duke, this clarification represents Duke's long-standing practice in the event of early contract termination with respect to the consideration of minimum bills for the remainder of the initial term and the loss due to early retirement of facilities to serve the customer.

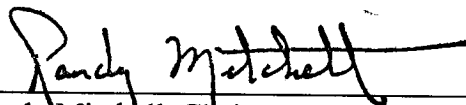
Further, Duke proposes to add the following language to Schedules G, W, GA, 9, BC TS, GB, BT, I, IT, OPT, HP-X, PG, EV-X, MP and IS in order to conform them to the proposed changes to Leaf A and to direct customers to the Service Regulations for their early termination obligation: "If the Customer requests an amendment to or termination of the service agreement before the expiration of the initial term of the agreement, the Customer shall pay to the Company an early termination charge as set forth in the Company's Service Regulations."

Lastly, the Company's OSG Program includes a formula-based rate that results in a monthly service fee specific to each participating customer. The OSG form of service agreement approved by the Commission in Docket No. 2001-245-E includes a detailed provision for calculation of a termination fee. Therefore, Duke proposes to amend the OSG tariff to simply refer to the service agreement for the early termination obligation.

The Office of Regulatory Staff (ORS) filed a letter stating that it has no objection to Duke's proposals. Further, ORS states that it understands that approval of the Application will benefit Duke and its customers by further clarifying party responsibilities in the event of early contract termination or amendment.


We have considered this matter, and hold that the Duke proposals should be approved as filed. The proposed changes are in the public interest, in that party responsibilities in the event of early contract termination or amendment are clarified. Accordingly, the Application is approved as filed. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Randy Mitchell, Chairman

ATTEST:



G. O'Neal Hamilton, Vice-Chairman

(SEAL)